



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAY 5 2003

REPLY TO THE ATTENTION OF:

D-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL

Mr. Steve Chandler
Vice President Operations
Minerva Enterprises
9000 Minerva Rd. SE
Waynesburg, Ohio 44688

Re: Off-site Rule Unacceptability notice
Minerva Enterprises
OEPA 2002-1

Dear Mr. Chandler:

This letter is to notify you that the United States Environmental Protection Agency (U.S. EPA) has determined that conditions exist at Minerva Enterprises, Inc. (ID number OEPA 2002-1), that may render this facility unacceptable for the receipt of off-site wastes generated as a result of any response activity under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This determination of unacceptability becomes effective 60 calendar days from the date of this notice unless such conditions are eliminated. Your facility remains acceptable to receive CERCLA waste during the 60-day period. If, however, this unacceptability determination becomes effective, the facility will remain unacceptable until such time as the U.S. EPA notifies the owner or operator otherwise. The implementation of this notice does not prohibit U.S. EPA or delegated State programs from taking appropriate enforcement actions under the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), the Clean Air Act (CAA), the Comprehensive Emergency Response, Compensation and Liability Act (CERCLA), state regulations or other laws.

On September 22, 1993, the Procedures for Planning and Implementing Off-site Response Actions (Off-Site Rule) was published in the Federal Register (58 Federal Register 49200). The purpose of the Off-site Rule is to ensure that wastes from CERCLA sites are sent to environmentally sound facilities and do not contribute to future environmental problems. The Off-Site Rule was codified in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at 40 CFR 300.440, and supersedes the previously published Off-Site Policy and

guidance. See also, CERCLA Section 121(d)(3), 42 U.S.C. 9621(d)(3). A copy of the Off-site Rule is enclosed for your review.

This determination is based on the failure of Minerva Enterprises to comply with the terms of the Final Findings and Orders of the Director of the Ohio Environmental Protection Agency issued on December 31, 2003. Among the findings of this order is that visible emissions from regulated asbestos containing materials were observed in March of 1998 and May of 2000. These are violations relevant to the acceptability of your facility under the criteria established in the Off-Site rule (40 CFR 300.440). Resolution of these violations requires settling the enforcement case brought by the Ohio EPA (which was included in the Final Findings and Orders of December 31) including the payment of any penalties.

Section V of the Final Findings and Orders of December 31, 2003 assessed a civil penalty of \$41,125 which was to be paid in eleven installments of \$3,500 and one installment of \$2,625 starting January 30 and being completed by the end of 2004. According to the Ohio EPA, only one payment of \$3,500 was received on July 23, 2004 with the balance of the ordered payments now being in default.

The Off-site Rule provides the facility owner or operator an opportunity to request an informal conference with the U.S. EPA Region 5 staff and legal counsel to discuss the basis for a facility's alleged potential unacceptability determination. The informal conference request must be made within 10 calendar days from the date of this letter. In addition to or instead of requesting such a conference, you may submit written comments within 30 calendar days from the date of this letter.

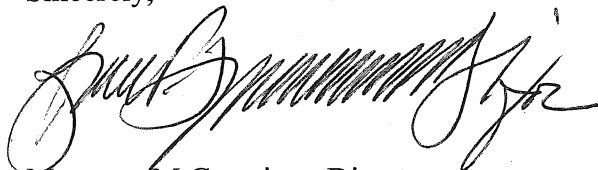
If an informal conference is held or written comments are submitted, U.S. EPA will inform the facility owner or operator whether or not the information is sufficient to show that the facility is operating in compliance. Unless U.S. EPA determines that the information provided is sufficient, the facility will become unacceptable, 60 calendar days after the date of this letter. On the date this determination becomes effective, the responsible entities shall cease the transport of CERCLA waste to your facility in accordance with the Off-site Rule.

If your facility is determined to be unacceptable after the informal conference and/or the submission of written comments, you may request the Regional Administrator to reconsider this unacceptability determination. Such a request must be made in writing within 10 calendar days after hearing from the U.S. EPA Regional office, following the informal conference or submittal of written comments. Such a review does not automatically stay the determination beyond the 60-day period.

This letter is being sent to you by both certified and first class mail, return receipt requested, in order to ensure that you receive it promptly. If you wish to request an informal conference, or submit written comments, or if you have any questions regarding this letter, you

may write to William Damico, of my staff, at U.S. EPA- Region 5, 77 West Jackson Blvd., DE-9J, Chicago, Illinois 60604 or call him at 312-353-8207.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret M. Guerriero". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Margaret M Guerriero, Director
Waste Pesticides and Toxics Division

Enclosure

cc: Tom Kalman, Ohio Environmental Protection Agency
Rick Miller, Canton City Health Department